COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3821
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Douglas W. Domenech
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

January 30, 2013

Mr. Brian Newman
Snyder & Schneider Property Development, LLC
200 Lakefront Drive, Suite 103
Mineral, Virginia 23117

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Virginia Water Protection (VWP) Individual Permit Number 07-0860
Cutalong, Louisa County, Virginia
Approval of Request for Minor Modification (Change in Ownership)

Dear Mr. Newman:

The Virginia Department of Environmental Quality (DEQ) has received your Change in Ownership request for the VWP Individual Permit No. 07-0860 issued on October 16, 2008.

In accordance with your request and pursuant to the VWP Permit Program Regulation 9 VAC 25-210-210 and § 401 of the Clean Water Act Amendments of 1977, Public Law 95-217; DEQ approves the Change in Ownership as noted below:

Former Owner: Cutalong, LLC, 3071 Slate Mills Road, Sperryville, Virginia 22740

New Owner: Snyder & Schneider Property Development, LLC, 200 Lakefront Drive, Suite 103, Mineral, Virginia 23117

DEQ has determined that this request qualifies for a Minor Modification in accordance with VWP Permit Program Regulation 9 VAC 25-210-180.F.4. under "change in ownership or operational control when the board determines that no other change in the VWP permit is necessary, provided that a written agreement containing a specific date for transfer of VWP permit responsibility, coverage and liability from the current to the new permittee has been submitted to the board." Attached is a new Permit Cover Page reflecting the Minor Modification and a copy of the permit conditions.

The work authorized by this VWP general permit was also authorized under the Norfolk District, U.S. Army Corps of Engineers' (USACE) State Program General Permit (07-SPGP-01). The expiration date of the 07-SPGP-01 authorization cannot be extended as this authorization was superseded and replaced by the Norfolk District, USACE's issuance of a modified State Program General Permit (12-SPGP-01). The work previously determined to satisfy the terms and conditions of 07-SPGP-01 is now authorized under

12-SPGP-01. You are required to adhere to all special conditions contained within the attached 12-SPGP-01 that are pertinent to your project. The 12-SPGP-01 authorization is effective as of the date of this letter and remains effective until May 31, 2017.

If you have any questions, please contact Amy Dooley at 703-583-3905 or amy.dooley@deq.virginia.gov.

Respectfully,

Thomas A. Faha

for Trisha M. Beasley
Regional VWPP Program Manager

Enclosures: Permit Cover Page, Permit Conditions, 12-SPGP-01, Completed Change of Ownership Agreement Form

cc: Mr. Paul Larner, Cutalong, LLC – VIA EMAIL
Ms. Regena Bronson, U.S. Army Corps of Engineers, Fredericksburg Field Office – VIA EMAIL
Mr. Christopher Frye, Vanasse Hangen Brustlin, Inc. – VIA EMAIL

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VWP Individual Permit Number 07-0860
Effective Date: October 16, 2008
Transfer of Ownership Date: January 30, 2013
Expiration Date: October 15, 2023

VIRGINIA WATER PROTECTION PERMIT ISSUED PURSUANT TO THE STATE WATER CONTROL LAW AND SECTION 401 OF THE CLEAN WATER ACT

Based upon an examination of the information submitted by the owner, and in compliance with § 401 of the Clean Water Act as amended (33 USC 1341 et seq.) and the State Water Control Law and regulations adopted pursuant thereto, the State Water Control Board (board) has determined that there is a reasonable assurance that the activity authorized by this permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to surface waters, will not cause or contribute to a significant impairment to state waters or fish and wildlife resources.

Permittee:	Snyder & Schneider Property Development, LLC
Address:	200 Lakefront Drive, Suite 103, Mineral, Virginia 23117
Activity Location:	The project is located south of the intersection of Routes 652 and 208 and north of Contrary Creek in Louisa County, Virginia.

Activity Description: The project is to construct a residential development on a 1, 007 acre parcel to be known as "Cutalong." The development consists of approximately 846 residential lots, utility and infrastructure, an 18-hole golf course, a boat storage facility, clubhouses, a boat common area with 98 boat slips, a water withdrawal from Contrary Creek, and dredging of Contrary Creek/Lake Anna for boat access. This permit authorizes the total impact to no more than 11. 93 acres of surface waters and the installation and operation of a water withdrawal in Contrary Creek. Permanent surface water impacts are to 10.32 acres of surface waters, consisting of 0.76 acre of palustrine forested (PFO) wetlands, 0.15 acre of palustrine emergent (PEM) wetlands, 9.3 acres of open waters, and 0.11 acre (897 linear feet) of stream channels. Conversion impacts are to 1.14 acres of PFO wetlands to PEM wetlands, 0.05 acre of PEM wetlands, and 0.02 acre (254 linear feet) of stream channels. Compensation for permanent wetland impacts shall be provided through the on-site creation 1.12 acres of PFO wetland and the preservation of 24.2 acres of PFO wetlands with 46.2 acres of upland buffers. Compensation for permanent impacts to stream channels shall be provided through the on-site preservation of 15,900 linear feet of stream channels with adjacent riparian buffers consisting of 15.7 acres of wetland buffers and 29.7 acres of upland buffers. Compensation shall be performed in accordance with the application materials or the most recent DEQ approved Final Compensation Plan.

The work authorized by this permit also satisfies the terms and conditions contained in the Norfolk District, U.S. Army Corps of Engineers' (USACE) State Program General Permit (12-SPGP-01) and no additional authorization from the USACE is required. The permittee is responsible for following all special conditions contained within the 12-SPGP-01 (attached) that are pertinent to the project.

The permitted activity shall be in accordance with this Permit Cover Page, Part I - Special Conditions, and Part II - General Conditions.

Thomas A. Faha, Regional Director

January 30, 2013
Date

Part I – Special Conditions

A. Authorized Activities

1. This permit authorizes the total impact to no more than 11.93 acres of surface waters, consisting of 10.32 acres of permanent impacts, 1.14 acres of conversion impacts, and 0.47 acre of temporary impacts. The permanent impacts consist of 0.76 acre palustrine forested (PFO) wetlands, 0.15 acre of palustrine emergent (PEM) wetlands, 9.30 acres of open waters, and 0.11 acre (897 linear feet) of stream channels. The conversion impacts consist of converting 1.14 acres of PFO wetlands to PEM wetlands. The temporary impacts consist of 0.40 acre of PFO, 0.05 acre of PEM, and 0.02 acre (254 linear feet) of stream channels. The authorized impacts listed above are summarized by activity below:

   a. The development of the residential area and golf course will result in the permanent impact to 0.76 acre of PFO wetlands and 0.11 acre (897 linear feet) of stream channels; the conversation impact to 1.14 acre of PFO wetlands; and the temporary impacts to 0.40 acre of PFO wetlands and 0.02 acre (254 linear feet) of stream channels.

   b. The proposed dredging of boat slips and boat access channel will result in the permanent impact to 0.15 acre of PEM wetlands and 9.30 acres of open water and the temporary impact to 0.05 acre of PEM wetlands.

2. This permit authorizes the installation and operation of a water withdrawal from Contrary Creek to irrigate the golf course in accordance with the conditions outlined in Part I.R. The location of the withdrawal shall be as indicated in Attachment A of submittal received via e-mail on February 7, 2008, unless otherwise approved in writing by DEQ.

3. This permit authorizes the dredging of Contrary Creek/Lake Anna to remove 47,000 cubic yards of dredged material.

4. The authorized impacts to surface waters are outlined in the Joint Permit Application (JPA) dated April 2007 and received on April 17, 2007; new JPA dated August 2007 and received on August 24, 2007; additional information dated November 7, 2007 and received on November 8, 2007; dated December 5, 2007 and received on December 6, 2007; dated August 19, 2008 and received on August 19, 2008; and Wet vs. Dry Dredging Map revised July 2008 and received on September 4, 2008. This permit authorization and conditions are also based on additional submittals approved by DEQ.

B. Permit Term

This permit is valid for fifteen (15) years from the date of issuance. The permittee shall notify DEQ in writing at least 120 calendar days prior to the expiration of this permit if an extension of the permit term is required.

C. Standard Project Conditions

1. The activities authorized by this permit shall be executed in such a manner that any impacts to stream beneficial uses are minimized. As defined in § 62.1-10(b) of the Code, "beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural, electric power generation, commercial, and industrial uses. Public water supply uses for human consumption shall be considered the highest priority.

2. No activity shall substantially disrupt the movement of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the primary purpose of the activity is to impound water.

3. Flows downstream of the project area shall be maintained to protect all uses.

4. No activity shall cause more than minimal adverse effect on navigation, and no activity shall block more than half of the width of the stream at any given time, unless specifically authorized by DEQ.

5. The activity shall not impede the passage of normal or expected high flows, and any associated structure shall withstand expected high flows.

6. Dredging shall be conducted in accordance with any Time-of-Year restriction(s) recommended by the Department of Game and Inland Fisheries. The permittee shall retain a copy of the agency correspondence concerning the Time-of-Year restriction(s), or the lack thereof, for the duration of the construction phase of the project.

7. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, French drains, or other similar structures.

8. All excavation, dredging, or filling in surface waters shall be accomplished in a manner that minimizes bottom disturbance and turbidity.

9. All construction, construction access, and demolition activities associated with this project shall be accomplished in a manner that minimizes construction materials or waste materials from entering surface waters, unless authorized by this permit. Wet, excess, or waste concrete shall be prohibited from entering surface waters.

10. All fill material placed in surface waters shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

11. Measures shall be employed at all times to prevent and contain spills of fuels, lubricants, or other pollutants into surface waters.

12. Machinery or heavy equipment in temporarily impacted wetlands shall be placed on mats or geotextile fabric, or other suitable means shall be implemented, to minimize soil disturbance to the maximum extent practical. Mats, fabrics, or other measures shall be removed as soon as the work is complete in the temporarily impacted wetland.

13. Heavy equipment is authorized for use within Contrary Creek and Lake Anna during project construction when site conditions prohibit access from the streambank. The equipment shall be stationed on cobble bars and the activities conducted in the dry or during low flow conditions, whenever possible. The permittee shall notify DEQ in writing prior to the temporary use of mechanical equipment in surface waters and any such work shall be accordance with all applicable permit conditions.

14. All temporarily disturbed wetland areas shall be restored to preconstruction conditions within 30 calendar days of completing work in the areas, which shall include re-establishing pre-construction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested), except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post-disturbance.

15. All temporarily impacted streams and stream banks shall be restored to their original elevations and contours within 30 calendar days following the construction at that stream segment, and the banks shall be seeded or planted with the same vegetative cover type originally present along the banks, including supplemental erosion control grasses if necessary but not including invasive species identified on DCR's Invasive Alien Plant Species of Virginia list. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post-disturbance.

16. All materials (including fill, construction debris, excavated materials, and woody materials, that are temporarily placed in wetlands, in stream channels, or on stream banks) shall be placed on mats or geotextile fabric, shall be immediately stabilized to prevent the material or leachate from entering surface waters, and shall be entirely removed within 30 calendar days following completion of that construction activity. After removal, disturbed areas shall be returned to original contours, shall be stabilized, and shall be restored to the original vegetated state within 30 calendar days. The permittee shall take all appropriate measures to promote and maintain the revegetation of temporarily disturbed surface waters through the second year post-disturbance.

17. Temporary in-stream construction features such as cofferdams shall be made of non-erodible materials.

18. Virginia Water Quality Standards shall not be violated in any surface waters as a result of the project activities.

19. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or the most recent version in effect at the time

of construction. These controls shall be placed prior to clearing and grading activities and shall be maintained in good working order, to minimize impacts to surface waters.

20. All non-impacted surface water and any required upland buffers that are within the project or right-of-way limits, and that are within fifty feet of any project activities, shall be clearly flagged or demarcated for the life of the construction activity within that area. The permittee shall notify all contractors and subcontractors that *no activities are to occur in these marked areas*.

21. All required notifications and submittals shall include project name and permit number and be submitted to the DEQ office stated below, to the attention of the VWP permit manager, unless directed in writing by DEQ subsequent to the issuance of this permit: Department of Environmental Quality-Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, Virginia 22193.

22. All reports required by this permit and other information requested by DEQ shall be signed by the permittee or a person acting in the permittee's behalf, with the authority to bind the permittee. A person is a duly authorized representative only if *both* criteria below are met. If a representative authorization is no longer valid because of a change in responsibility for the overall operation of the facility, a new authorization shall be immediately submitted to DEQ.

    a. The authorization is made in writing by the permittee.

    b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

23. All submittals shall contain the following signed certification statement:

    "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

24. Any fish kills or spills of fuels or oils shall be reported to DEQ immediately upon discovery at (703) 583-3800. If DEQ cannot be reached, the spill shall be reported to the Virginia Department of Emergency Management (DEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802.

25. DEQ shall be notified in writing within 24 hours or as soon as possible on the next business day when potential environmentally threatening conditions are encountered which require debris removal or involve potentially toxic substances. Measures to remove the obstruction, material, or toxic substance or to change the location of any structure are prohibited until approved by DEQ.

26. The permittee shall notify the DEQ of any additional impacts to surface waters, including wetlands; of any modifications of the intake structure; and of any change to the type of surface water impacts associated with this project.

D. Stream Modifications, Including Intake/Outfall Structures

1. Any exposed slopes or streambanks shall be stabilized immediately upon completion of work in each impact area. Methods and materials for stabilization shall be in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or the most recent version in effect at the time of construction.

2. Redistribution of existing stream substrate for erosion control purposes is prohibited.

3. Material removed from the stream bottom shall not be deposited into surface waters unless otherwise authorized in this permit.

4. Riprap apron for all outfalls shall be designed in accordance with Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or the most recent version in effect at the time of construction.

5. For streambank protection activities, structures and backfill shall be placed as close to the streambank as practical, while still avoiding and minimizing impacts to surface waters to the maximum extent practical. No material shall be placed in excess of the minimum necessary for erosion protection.

6. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills, breakwaters, dams, or weirs.

E. Installation of Utilities

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance in each area. Temporarily disturbed surface waters shall be restored in accordance with Part I.C. 14, 15, 16, and 17, unless otherwise authorized by this permit.

2. Material resulting from trench excavation may be temporarily sidecast into wetlands not to exceed a total of 90 calendar days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a French drain effect).

F. Road Crossings

1. Access roads authorized by this permit shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable and to follow as near as possible pre-construction contours and elevations.

2. Installation of pipes and road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions or other similar structures.

3. All surface waters temporarily affected by a road crossing shall be restored to their original elevations immediately following the removal of that particular temporary crossing. Temporary access roads shall be removed entirely following activity completion.

4. If stream channelization or relocation is authorized, all work in surface waters shall be done in the dry, unless specifically authorized by this permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The stream channelization or relocation shall be constructed following the typical sections submitted with the application and should incorporate natural stream channel design principles to the greatest extent practicable. A low flow channel shall be constructed within the channelized or relocated area. The centerline of the channel shall meander, to the extent possible, to mimic natural stream morphology. The rerouted stream flow shall be fully established before construction activities in the old streambed can begin.

5. At crossings of streams, pipes and culverts less than 24 inches in diameter shall be countersunk a minimum of three inches, and pipes and culverts greater than 24 inches in diameter shall be countersunk a minimum of six inches to provide for the re-establishment of a natural stream bottom and to maintain a low flow channel. For multiple-celled culverts, only the bottoms of those cells situated below the limits of ordinary high water shall be countersunk. To the greatest extent practicable, other cells, pipes, or culverts shall be elevated to provide a natural distribution of flood flows. The requirement to countersink shall not apply to extensions or maintenance of existing culverts that are not countersunk, to floodplain culverts being placed above ordinary high water, to culverts being placed on bedrock, or to culverts required to be placed on slopes 5% or greater.

6. Stream bottom elevations at road crossings shall be measured at the inlet and outlet of the proposed structure and recorded prior to construction and within one week after the completion of construction to ensure that the design elevations were met. This information shall be submitted to DEQ with the construction monitoring report due after elevations are measured.

G. Stormwater Management Structures

1. Stormwater management facilities shall be designed and installed in accordance with best management practices and watershed protection techniques (as per the Dept. of Conservation and Recreation's Stormwater Management Handbook, First Edition, 1999, or the most recent version in effect at the time of construction. The design and function of the stormwater management

facility shall be adequate to protect downstream surface water from degraded water quality as a result of stormwater discharge associated with the activities authorized by this permit.

2. The outfall and overflow structure shall be constructed and maintained to prevent downstream sediment deposition, erosion, or scour that may be associated with normal flow and any expected storm flows. Construction shall include the use of an appropriately sized riprap outlet protection apron at the outfall site.

3. A stormwater facility maintenance plan shall be submitted to the DEQ for each stormwater management facility authorized by the permit. Maintenance excavation shall follow the approved maintenance plan, and shall not exceed the original contours of the facility as constructed. Maintenance excavation shall follow the approved stormwater management plan authorized by this permit, and shall not exceed the original contours of the facility.

4. Draining of a stormwater management facility shall be performed by a method that prevents downstream sediment deposition, erosion, or scour.

H. Pond Construction

The outfall and overflow structure shall be constructed and maintained to prevent downstream sediment deposition, erosion, or scour that may be associated with normal flow and any expected storm flows. Construction shall include the use of an appropriately sized riprap outlet protection apron at the outfall site.

I. Projects Involving a Golf Course

1. A no application buffer zone of not less than 25 feet shall be established from the boundaries of surface waters, including preserved and compensation wetlands, naturally occurring and man-made ponds, and perennial and intermittent streams.

2. Within the golf course, all clearing in preserved wetlands to accommodate golf course flight paths shall be performed by hand or hand-held machine and stumps may be ground by rubber-tired grinders placed on mats or geotextile fabric, or by other suitable measures that minimize soil disturbance to the maximum extent practicable.

3. A Nutrient and Integrated Pest Management Plan approved by DCR shall be implemented prior to turf establishment.

J. Projects Involving a Marina

1. All pilings and steel bulkheads shall be driven.

2. Timber bulkheading shall be backed by filter cloth.

3. Signs shall be conspicuously posted at the marina stating that the State Water Control Law prohibits the discharge of sewage, oil, or other waste materials into surface waters.

4. Signage shall be posted that boat maintenance at individual slips shall be restricted to those activities that can be performed without hazardous, toxic or solid materials entering surface waters.

K. Dredging Activities

Dredging

1. Should water quality monitoring indicate the need for a water quality based limitation; this permit may be modified or alternatively revoked and reissued to incorporate limitations. This condition is required to ensure the dredging and/or transfer of dredged material is conducted in a manner, which minimizes excessive turbidity or resuspension of bottom material and associated detrimental affects. Dredging and/or dredged material transfer operations shall cease, if directed by DEQ.

2. All dredging shall cease when the sampling indicates that sediments suspended by the dredging operation are not being contained within Best Management Practices and/or that dredging is causing significant decrease in the existing water quality.

3. Dredging and excavation shall be limited to the minimum necessary to conduct the permitted activities. The width, length, and depth of the dredge cut shall not exceed the dimensions listed below and as indicated in the application materials listed Part I.A.4 and/or the most recent DEQ approved Final Dredging Plan.

    a. The mechanical dredging of 9.3 acres of Contrary Creek/Lake Anna surface waters.

    b. The removal of approximately 47,000 cubic yards of dredged material associated with the initial 9.3 acres of dredging.

    c. Dredging between Station Numbers 0+00 and 26+50, as indicated on Sheet 33 of 33 provided in the submittal revised July 2007 and received at DEQ on August 24, 2007, is permitted to maximum allowable depth of 6 feet below the 250 elevation.

    d. Dredging of the 0.5 acre shoal north of the Freshwater Estates community pier, depicted on Sheet 33 of 33 provided in the submittal revised July 2007 and received at DEQ on August 24, 2007, is permitted to the length, width and depth approved by DEQ in the Final Dredging plan submitted in accordance with Part I.L.2.b. The length, width and depth of dredging in this location shall be no less than and no more than necessary to remove the sediments with heavy metal concentrations that exceed the concentrations of the existing lake bottom at the Sample 12 location or exceed the sediment screening values based on the Probability Effects Concentrations (PECs) pursuant to Guidance Memo No. 07-2010, 2008 Water Assessment Manual as noted in the DEQ Water Quality Assessment Guidance Manual for Y2008 305(b)/303(d) Integrated Water Quality Report, whichever is greater.

e. 8.1 acres of surface water shall be completed under dry conditions via the method approved by DEQ in the Final Dredging Plan required in Part I.L.2.a.

f. The permitted Dredging Limits are as indicated on Sheet 33 of 33 provided in the submittal revised July 2007 and received at DEQ on August 24, 2007, or the DEQ approved Final Dredging Plan.

4. This permit authorizes three maintenance dredging cycles between Stations 26+50 and 22+00 over the 15 year permit term.

5. Dredging shall be accomplished to minimize disturbance of the bottom and minimize turbidity levels in the water column.

6. The double handling of dredged material in surface waters shall not be permitted.

7. Side slope cuts of the dredging area shall not exceed a two-horizontal-to-one-vertical (2:1) slope to reduce slumping of material into the dredged area.

8. No dredging shall occur between March 15 and June 30 of any year as recommended by the Department of Game and Inland Fisheries.

Transfer and Transport of Dredged Material

9. All dredge material shall be transported via barges or watertight trucks if transport on public roads is required.

10. During transport, dredge material shall be handled in accordance with the transport operation's spill prevention plan. In the event of a spill, the response portions of the plan shall be implemented immediately.

11. Barges or trucks used for the transportation of dredged material shall be filled in such a manner as to prevent any overflow of dredged material.

12. The dredge material shall not be handled directly over open water to the maximum extent practicable. The off-loading operation shall be conducted in a manner that prevents any discharge of liquids or solids to surface waters.

Dredged Material Storage/Dewatering

13. Construction plans of the dredged storage/dewatering area shall be included in the Final Dredging Plan.

14. The dredge material storage/dewatering area shall be of adequate size to contain the dredge material and to allow for adequate dewatering and settling out of sediment prior to discharge back into surface waters. Runoff from the surrounding area shall be diverted around the dewatering area.

15. The dredge material storage/dewatering area shall utilize an earthen berm or straw bales covered with filter fabric along the edge of the area to contain the dredged material. The storage/dewatering area shall be properly stabilized prior to placing the dredged material within the storage/dewatering area. The storage/dewatering area shall be adequately sized to contain the dredged material and accumulated precipitation for the duration of the dredging activities that utilize the storage/dewatering area.

16. Pipeline outfalls and spillways shall be located at opposite ends of the dewatering area to allow for maximum retention and settling time.

17. Adequate groundcover or seeding shall be applied to the outside bank of the earthen berm immediately after constructing the berm to minimize soil runoff.

18. Overtopping of the dredge spoil containment berms with dredge spoil disposal materials post completion shall be prohibited.

L. Dredging Impact Site Monitoring and Submittals

Pre-Dredging Monitoring

1. The permittee shall conduct the following pre-dredging monitoring and testing:

   a. Photographic monitoring of pre-construction conditions in permitted permanent and temporary impact areas. Photographic monitoring shall be conducted via enumerated photo stations shall be established and used for the duration of dredge activities at the following locations: upstream and downstream of the dredging area, the ingress locations, egress locations, disposal area, and the location where the storage/dewatering structure will discharge. The directional orientation of each photo station shall remain constant during all monitoring events. Photo stations shall be sufficient to represent permitted activities. Photo stations may be established via watercraft or temporary floating structures. Each photograph taken shall be labeled with the permit number, location, photo station number, photograph orientation, date and time of the photograph, name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary.

   b. Sediment Analysis at the location of Sample 12 to determine the length, width, and depth of the sediments with heavy metal concentrations that exceed the concentrations of the existing lake bottom at the Sample 12 location or exceed the sediment screening values based on the Probability Effects Concentrations (PECs) pursuant to Guidance Memo No. 07-2010, 2008 Water Assessment Manual as noted in the DEQ Water Quality Assessment Guidance Manual for Y2008 305(b)/303(d) Integrated Water Quality Report, whichever is greater. The location of Sample 12 and the heavy metal concentrations of the sediments comprising the existing lake bottom are as indicated in the *Interpretation of Sediment, Elutriate & Water Colum Analytical Data from September 11, 2008 Sampling Event dated September 25, 2008 and received at DEQ via e-mail on September 26, 2008*.

Pre-Dredging Submittals

2. Final Dredging Plans:

a. A final dredging plan for the dredging between Station Numbers 0+00 and 26+50, as indicated on Sheet 33 of 33 provided in the submittal revised July 2007 and received at DEQ on August 24, 2007, shall be submitted and approved by DEQ prior to commencement of any dredging activities between 0+00 and 26+50. The plan shall include the following information at minimum:

i. The length, width, and depth of the dredge channel and the cubic yards of material that will be dredged calibrated to the bathymetric survey results;

ii. Cross-sections of the existing channel and the proposed cross-sections after dredging;

iii. A timeline that explains when dredging will commence and when any associated work will be completed;

iv. A dredge material management plan including construction plans of the dredge storage/dewatering structure and schedule of the dredging that describes Best Management Practices and procedures for hauling, storing, and disposing of all fuels, oils, or other wastes that will prevent these materials from reaching surface waters;

v. The following information pertaining to dredging under dry conditions: the location of cofferdams; how the water will be pumped out of contained area; narrative of how dredging will proceed under the dry conditions; the location and area of any temporary impacts to surface water associated with mobilizing equipment; the location of any sediment control measures; a plan to remove the dams; and an action plan that can be implemented in the event that the cofferdams fail;

vi. The location of all measures that will be employed to control sediment suspended from the wet dredging operation and when associated sediment control measures will be employed, maintenance and removed; and,

vii. A map of photograph locations and the preconstruction photos.

b. A final dredging plan for dredging the 0.5 acre shoal north of the Freshwater Estates community pier, depicted on Sheet 33 of 33 provided in the submittal revised July 2007 and received at DEQ on August 24, 2007, shall be submitted and approved by DEQ prior to commencement of any dredging activities in this location. The plan shall include the following information at minimum:

i. The results and analysis of sediment testing required in Part I.L.1.b.

ii. The length, width, and depth of the dredge channel and the cubic yards of material that will be dredged calibrated to results of the sediment testing;

ii. Cross-sections of the existing channel and the proposed cross-sections after dredging;

iii. A timeline that explains when dredging will commence and when any associated work will be completed;

iv. A dredge material management plan including construction plans of the dredge storage/dewatering structure and schedule of the dredging that describes Best Management Practices and procedures for hauling, storing, and disposing of all fuels, oils, or other wastes that will prevent these materials from reaching surface waters;

vi. The location of all measures that will be employed to control sediment suspended from the wet dredging operation and when associated sediment control measures will be employed, maintenance and removed; and,

vii. A map of photograph locations and the preconstruction photos.

3. A Water Quality Monitoring Plan shall be submitted to DEQ for review and approval at least sixty (60) calendar days prior to starting any dredging activity. Dredging under wet conditions shall not be initiated prior to the permittee's receipt of written approval of the Water Quality Monitoring Plan from DEQ. The Water Quality Monitoring Plan shall include the following at a minimum:

a. The a map depicting water quality sample locations. Samples shall be taken upstream of dredging and downstream of dredging. Samples shall be taken at the outfall of the storage/dewatering structure if there is a discharge;

b. The procedure and analytic methods that will be employed to collect and analyze the data;

c. The plan shall be sufficient to document ambient conditions at the control stations and within 75 feet downstream of dredging and dredged material transfer operations. The documentation of the ambient water quality conditions shall include an evaluation of existing levels of cadmium, copper and zinc in the water column;

d. A procedure to measure and evaluate Total Suspended Solids;

e. The format and frequency of data submittals;

f. A prediction of what percent change is anticipated in the ambient water quality conditions, including any anticipated changes in Total Suspended Solids, Cadmium, Zinc, and Copper in the water column;

g. All dredging shall cease when the sampling indicates that sediments suspended by the dredging operation are not being contained within Best Management Practices.

4. Any changes to the final dredging plans that affect permitted areas shall be submitted to DEQ immediately upon determination that changes are necessary. Written DEQ approval shall be required prior to implementation of the changes.

5. The permittee shall submit written notification at least ten calendar days prior to the initiation of land disturbance or dredging activities associated with dredging project.

Monitoring During Dredging Activities

6. The permittee shall conduct photographic monitoring of dredging activities weekly to document that the permitted activities are in compliance with permit conditions and to document any events that are not in compliance with the construction-related permit conditions. The permittee shall use the same photo method and location that was used for pre-construction monitoring.

7. Water quality monitoring shall occur in accordance with the DEQ approved Water Quality Monitoring Plan referenced in Part I.L.3.

8. For temporary disturbances to surface waters, the permittee shall conduct photographic monitoring after the temporary disturbance activity is complete in order to document that the area has been restored in compliance with these permit conditions.

Submittals During Dredging

9. Water Quality Monitoring Reports shall contain the information as required by the Water Quality Monitoring Plan approved by DEQ and referenced in Part I.L.3. The reports shall be submitted to DEQ as required by the DEQ-approved Water Quality Monitoring Plan.

10. Dredging Photographic Monitoring Reports shall be submitted to DEQ monthly. The reports shall be submitted 30 days after a 30-day monitoring period. The reports shall include the following, as appropriate:

    a. A written narrative stating whether or no work was performed during the monitoring period. If performed, the narrative shall include a description of the work performed, when the work was initiated, and the expected date of completion.

    b. A summary of activities conducted to comply with the permit conditions, including items associated with meeting specific permit conditions and a description of erosion and sediment controls used to protect water quality and any maintenance performed on the controls.

    c. A written summary, including photographs, of non-compliance events or problems encountered; any corrective actions taken; and any subsequent notifications to DEQ.

    d. A summary of anticipated work to be completed during the next reporting period and an estimated date of construction completion at all permitted impact areas.

    e. A labeled site map depicting all permitted impact areas and photo stations.

    f. Properly labeled photographs, including those documenting the completed restoration of temporarily disturbed surface waters. The first dredging monitoring report shall also include

the photographs taken at each permitted impact area prior to initiation of land disturbance or construction activities in that area.

Post-Dredging Monitoring

11. The permittee shall conduct photographic monitoring of all permitted impact areas upon completion of construction and stabilization of the area. The permittee shall use the same photo method and location that was used for pre-construction monitoring.

12. The permittee shall conduct a post-dredging bathymetric survey.

Post-Dredging Submittals

13. A final Dredging Photographic Monitoring Report shall be submitted to DEQ within 60 days after dredging is complete. The report shall include all applicable information outlined in Part I.L.10 and the following information: notice that all dredging activities are complete; the bathymetric survey results; a comparison of the proposed dredge and survey results; and, post dredging photographs.

M. Construction Monitoring and Submittals (All Non-Dredging Impact Sites)

Pre-Construction Monitoring

1. The permittee shall conduct photographic monitoring of pre-construction conditions in permitted permanent and temporary impact areas covered by this permit. Photographic monitoring shall be conducted by the following method:

   Enumerated photo stations shall be established at each permitted impact area that shall be used for the duration of construction activities. The directional orientation of each photo station shall remain constant during all monitoring events. Photo stations shall be sufficient to represent permitted activities. Photo stations may be established via water craft or temporary floating structures. Each photograph taken shall be labeled with the permit number, the permitted impact area, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary.

Pre-Construction Submittals

2. The permittee shall submit written notification at least ten calendar days prior to the initiation of land disturbance or construction activities in permitted areas. The notification shall include a Final Impact Map and a projected schedule for initiating and completing work at each permitted impact area.

3. Construction in authorized impact areas shall be performed in accordance with the Final Wetland Impact Map dated November 1, 2007 and received on November 8, 2007 and the revised impact summary table received at DEQ on December 6, 2007. Any changes to the final construction

plans that affect permitted areas shall be submitted to DEQ immediately upon determination that changes are necessary. DEQ approval shall be required prior to implementing the changes.

Monitoring During Construction

4. The permittee shall conduct photographic monitoring of construction activities to document that the permitted activities are in compliance with permit conditions, and to document any events that are not in compliance with the construction-related permit conditions. The permittee shall use the same photo location that was used for pre-construction monitoring.

5. Photographic monitoring during construction activities in each permitted impact area shall be required quarterly.

6. For temporary disturbances to surface waters, the permittee shall conduct photographic monitoring after the temporary disturbance activity is complete in order to document that the area has been restored in compliance with these permit conditions.

7. Monitoring of water quality parameters shall be conducted as described below during relocation of any flowing stream through a new channel. Corrective measures and additional monitoring may be required if water quality standards are not met. The permittee shall report violations of water quality standards to DEQ within 24 hours of monitoring. All monitoring data shall be submitted to DEQ within seven calendar days of the monitoring event.

   a. One sampling station shall be located upstream of the relocated channel, and one sampling station shall be located immediately downstream of the relocated channel.

   b. At the upstream sampling station, temperature, pH, and dissolved oxygen (D.O.) measurements shall be taken immediately before opening a new channel, and every 30 minutes thereafter for at least two hours.

   c. At the downstream sampling station, temperature, pH, and dissolved oxygen (D.O.) measurements shall be taken immediately after opening a new channel, and every 30 minutes thereafter until the measurements indicate that the site has stabilized (minimum of three hours).

Submittals During Construction

8. Construction Monitoring Reports shall be submitted to DEQ semiannually. The reports shall be submitted 30 days after a six month monitoring period. The reports shall include the following, as appropriate:

   a. A written narrative stating whether or not work was performed during the monitoring period in each permitted impact area. If work was performed, the narrative shall include a description of the work performed, when the work was initiated, and the expected date of completion.

b. A summary of activities conducted to comply with the permit conditions, including items associated with meeting specific permit conditions and a description of erosion and sediment controls used to protect water quality and any maintenance performed on the controls.

c. A written summary, including photographs, of non-compliance events or problems encountered, any corrective actions taken, and any subsequent notifications to DEQ.

d. A summary of anticipated work to be completed during the next reporting period, and an estimated date of construction completion at all permitted impact areas.

e. A labeled site map depicting all permitted impact areas and photo stations.

f. Properly labeled photographs, including those documenting the completed restoration of temporarily disturbed surface waters. The first construction monitoring report shall also include the photographs taken at each permitted impact area prior to initiation of land disturbance or construction activities in that area.

Post-Construction Monitoring

9. The permittee shall conduct photographic monitoring of all permitted impact areas upon completion of construction and stabilization of the area. The permittee shall use the same photo method and location that was used for pre-construction monitoring.

Post-Construction Submittals

10. Post-construction photographs of permitted impact areas shall be included in the final semiannual monitoring report.

11. The permittee shall submit written notification within 30 calendar days after the completion of all activities in all permitted impact areas authorized under this permit.

N. Compensatory Mitigation

1. Compensation for the permanent impacts to 0.76 acre of PFO wetlands and 0.15 acre of PEM wetlands and conversion impacts to 1.14 acre of PFO wetlands shall be provided through the on-site creation of 1.12 acres of PFO wetlands and the on-site preservation of 24.2 acres of PFO wetlands with 46.2 acres of upland buffer. Compensation shall be in accordance with the submittal dated December 5, 2007 and received on December 7, 2007 or the most recent DEQ approved plan.

2. Compensation for 847 linear feet of permanent stream channel impacts shall be provided through the on-site preservation of 15,900 linear feet of stream channel with adjacent riparian buffers consisting of 15.7 acres of wetlands and 29.7 acres of upland areas. Compensation shall be in accordance with the submittal dated December 5, 2007 and received on December 7, 2007 or the most recent DEQ approved plan.

O. On/Off Site Creation, Restoration, and/or Preservation Standard Conditions

1. The permittee is responsible for meeting all of the components of the compensatory mitigation requirements associated with this permit. This responsibility can only be transferred if and when the permit is transferred to another party and then only to the new permit recipient.

2. The final wetlands and stream compensation plan (final compensation plan), as prepared in accordance with Part I.P.4 of these conditions, shall be approved by DEQ prior to any construction activity in permitted impact areas. DEQ shall have 60 calendar days to review and either provide written comments to the permittee or approve the final compensation plan. The final compensation plan as approved by DEQ shall be an enforceable requirement of this permit. Any change to the approved final compensation plan must be submitted to DEQ for approval prior to implementing the change.

3. For compensation sites involving land disturbance, a site stabilization plan shall be implemented prior to compensatory mitigation construction activities.

4. If compensation site construction has not commenced within 180 calendar days of beginning a construction activity in *any* permitted impact area not associated with dredging, work in the permitted impact areas shall cease, unless otherwise authorized by DEQ.

5. Planting of woody plants shall occur when vegetation is normally dormant unless otherwise approved in the final compensation plan.

6. Vegetation shall be native species common to the area and shall be suitable for growth in local wetland and/or riparian conditions.

7. All vegetation removal for control purposes shall be done by manual means, unless authorized by DEQ in advance. Herbicides or algacides shall not be used in or immediately adjacent to compensation areas without prior authorization by DEQ.

8. Point sources of stormwater runoff shall be prohibited from entering any compensation site prior to treatment by appropriate best management practices (BMPs) that are designed, installed, and maintained as described in the Virginia Erosion and Sediment Control Handbook (Third Edition, 1992, or the most recent version in effect at the time of construction) and the Virginia Stormwater Management Handbook (First Edition, 1999, or the most recent version in effect at the time of construction). Appropriate best management practices may include sediment traps, grassed waterways, vegetated filter strips, debris screens, oil and grease separators, and forebays. Installation of alternative practices not described in these references shall be submitted to DEQ for approval prior to beginning construction.

9. All *non-impacted surface waters* and designated upland buffers that are within the compensation site limits, and that are within fifty feet of any compensation site activities, shall be clearly flagged or demarcated for the life of the activity within that area. Open water areas should be demarcated as practicable. The permittee shall notify all contractors and subcontractors that *no activities are to occur within these marked areas*.

10. All required notifications and submittals shall be submitted in accordance with Part I.C. 23, 24 and 25.

11. Any fish kills or spills of fuels or oils shall be reported to DEQ immediately upon discovery at (703) 583-3800. If DEQ cannot be reached, the spill shall be reported to the Virginia Department of Emergency Management (DEM) at 1-800-468-8892 or the National Response Center (NRC) at 1-800-424-8802.

12. DEQ shall be notified in writing within 24 hours or as soon as possible on the next business day when potential environmentally threatening conditions are encountered which require debris removal or involve potentially toxic substances. Measures to remove the obstruction, material, or toxic substance or to change the location of any structure are prohibited until approved by DEQ.

P. Compensation Site Construction Tasks, Monitoring, and Submittals

Pre-Construction Tasks

1. The permittee shall conduct photographic documentation of pre-construction conditions at the wetland compensation site (compensation site). Photographic documentation shall be conducted by the following method:

   Photographs shall be taken at a height of approximately five to six feet and from fixed-point stations, preferably at the same location as that of each planned monitoring well. Photographs shall be taken in each of the four cardinal directions (north, east, south, and west). Permanent markers shall be established to ensure that the same locations on the site are used for future monitoring events. Each photograph taken shall be labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary.

2. Photographs of existing conditions shall be taken prior to the commencing activities at the compensation site. Photographs at the compensation site shall not be required until land disturbance or construction activities are initiated on the compensation site.

Pre-Construction Submittals

3. DEQ shall be notified in writing at least ten calendar days prior to the initiation of activities at the compensation site. The notification shall include a projected schedule of activities and construction completion.

4. The permittee shall submit a final compensation plan, which shall include, at a minimum, the following information:

a. The goals and objectives of the plan, including but not limited to classification of the existing wetlands and stream channels being impacted, how the compensation is replacing/enhancing/preserving wetland and stream channel functions and values, the components of the compensation expressed in acres, the proposed vegetation types, and the wetland and stream channel classification;

b. DEQ approved surface water impacts resulting from the compensation activities are authorized under this permit. The permittee shall include a summary of the type and acreage/linear feet of impacts and proposed compensation for these impacts in the final compensation plan. Any additional impacts resulting from the proposed compensation site construction shall be approved by DEQ prior to construction. These additional impacts shall be compensated for, as required by DEQ.

c. A scaled map depicted preserved riparian buffers and discussion of the dimensions of all associated buffers;

d. The schedule for compensation site construction, including projected start date, sequence of events with projected dates, and projected completion date;

e. A location map, including the compensation site boundaries, the latitude and longitude (to the nearest second) at the center of the compensation site, and the watershed name and the 8-digit Hydrologic Unit Code in which the compensation site is located;

f. a hydrologic analysis, including a water budget (for nontidal sites only) based on expected monthly inputs and outputs which will project water level elevations for a typical year, a dry year and a wet year

g. Design of water control structures;

h. Wetland delineation confirmation, data sheets, and maps for existing wetland areas on the compensation site, and any collectible information on reference wetlands adjacent to or near the compensation site;

i. Grading and erosion and sediment control plans;

j. A planting scheme and schedule, including but not limited to, suggested plant species, zonation, and acreage of each vegetation type proposed;

k. A soil preparation and amendment plan addressing both topsoil and subsoil conditions;

l. A surrounding land use and access plan for the compensation site;

m. A success criteria monitoring plan including:

(1) The monitoring design and methodologies being used to evaluate the success of the proposed compensation site;

(2) the monitoring and reporting schedule;

(3) the proposed success criteria for the compensation measures, including discussion of structures and features necessary for the success of the compensation site;

(4) sketch(es) depicting the location of photo stations, monitoring wells, soil sampling points (as appropriate), vegetation sampling points, and reference wetlands (if available);

(5) corrective action and/or contingency plan to address compensation site problems, deficiencies, or unexpected events;

n. A monitoring and control plan for undesirable plant species: the plan shall apply, at a minimum, to the species listed on DCR's Invasive Alien Plant Species of Virginia list; shall include the procedures to notify DEQ of any undesirable plant species occurrences, the methods to be used for removal and control, and the method of reporting the control results to DEQ; and shall be implemented whenever an invasive species, either individually or cumulatively, becomes a dominant species in any wetland compensation site;

o. Proposed deed restriction language for protecting the compensation site and preservation sites, including all surface waters and upland areas that are to be preserved in perpetuity within the compensation site boundary. Protection of the compensation site shall be documented as follows:

(1) The protected areas shall be surveyed or platted within the timeframe provided in the final compensation plan approval by DEQ. The final survey or plat shall be certified by a professional engineer or licensed land surveyor and shall be submitted to DEQ for review. DEQ shall have 60 calendar days to review the survey or plat. The permittee is responsible for ensuring that the survey or plat is in accordance with the JPA materials.

(2) The protective instrument shall be written so that no activity will be performed on the property in any area designated as a compensation site or non-impacted surface water, with the exception of maintenance or corrective action measures authorized by DEQ. Unless otherwise authorized by DEQ, the restrictions apply to ditching, land clearing, or the discharge of dredge or fill material. The protective instrument restrictions shall contain the phrase "ditching, land clearing, or discharge of dredge or fill material" in the limitations placed on the use of these areas.

(3) The protective instrument shall be recorded in the chain-of-title to the property on which the compensation site exists. Proof of recordation shall be submitted to DEQ within the timeframe outlined in the final compensation plan, following DEQ's review and confirmation of the surveyed or platted compensation site.

Monitoring During Construction

5. Photographic monitoring of compensation site construction shall be required at the end of each month during construction to document that construction activities are being performed in manner to prevent impacts to adjacent surface waters.

6. Photographic monitoring shall be conducted using the same method used during pre-construction monitoring.

7. For temporary disturbances to surface waters, the permittee shall conduct photographic monitoring after the temporary disturbance activity is complete in order to document that the area has been restored in compliance with these permit conditions.

Submittals for Construction Monitoring

8. Compensation site construction monitoring reports shall be submitted within 30 calendar days of each monitoring event. The reports shall include the following, as appropriate:

   a. A summary of construction progress, including any problems encountered and the proposed corrective actions or the DEQ-approved corrective actions taken.

   b. Properly labeled photographs as detailed in Part I.P.1. The first construction monitoring report shall include the photographs taken at the compensation site prior to initiation of land disturbance or construction activities at the compensation site.

9. After the wetland compensation site reaches final grades, but prior to planting, the permittee shall submit a post-grading survey to DEQ. The survey shall be conducted by a licensed land surveyor and certified by a licensed surveyor, licensed professional engineer, or licensed landscape architect. The survey shall document spot elevations (in feet above mean sea level) that are within +/- 0.2 (0.25) feet of the elevations indicated in the site construction grading plan. Post-grading elevations for the compensation site shall be sufficient to ensure that wetland hydrology will be achieved on the site to support the goals and objectives of the approved final compensation plan. DEQ shall have 30 calendar days to review the survey and provide comments to the permittee.

Monitoring for Success Criteria After Construction

10. Success monitoring of the constructed wetland compensation site shall begin at the end of the first complete growing season (monitoring year one) following compensation site construction and shall be conducted on the annually for five years unless otherwise approved in final compensation plan.

11. If all success criteria have not been met by for two consecutive years or if visual observations conclude that the site has not met the overall restoration goals, corrective actions shall be implemented in accordance with the DEQ-approved corrective action plan. Annual monitoring shall continue until two sequential, annual reports indicate that all criteria have been successfully satisfied (e.g., that corrective actions were successful) and the compensation site has met the overall restoration goals. The permittee shall be solely responsible for ensuring that all necessary corrective actions are implemented so that the compensation site meets the success criteria, as

detailed in the final compensation plan. Should any significant changes to the compensation site be necessary, the first full growing season after the changes are complete shall become the new monitoring year one. Monitoring shall continue in accordance with the DEQ-approved corrective action plan.

12. If all success criteria have not been met by November 30th of the last monitoring year specified in the approved final compensation plan, or if visual observations conclude that the site has not met the overall restoration goals, corrective actions shall be implemented in accordance with the DEQ-approved corrective action plan. Annual monitoring shall continue until two sequential, annual reports indicate that all criteria have been successfully satisfied (e.g., that corrective actions were successful) and the compensation site has met the overall restoration goals. The permittee shall be solely responsible for ensuring that all necessary corrective actions are implemented so that the compensation site meets the success criteria, as detailed in the final compensation plan. Should any significant changes to the compensation site be necessary, the first full growing season after the changes are complete shall become the new monitoring year one. Monitoring shall continue in accordance with the DEQ-approved corrective action plan.

13. Photographic documentation during success monitoring shall be conducted in accordance with the final compensation plan approved by DEQ.

14. Hydrology monitoring at a *nontidal* wetland compensation site shall be conducted in accordance with the final compensation plan approved by DEQ. Hydrology monitoring may not be required at tidal wetland compensation sites.

15. Wetland vegetation monitoring shall be conducted annually in accordance with the methods described in final compensation plan approved by DEQ. Undesirable plant species shall be identified and controlled as described in the monitoring and control plan for undesirable plant species, such that they are not dominant species or do not change the desired community structure.

16. Monitoring for the presence of hydric soils or soils under hydric conditions shall be conducted in accordance with the final compensation plan approved by DEQ.

17. At the completion of each monitoring year, a calculation of the acreage of each wetland type shall be made and shall be based upon that monitoring year's soils data, vegetation data, and hydrology data (if required). The acreage calculation shall be shown on the most recent version of the compensation site design plan sheet(s) and shall be submitted with that year's monitoring report.

18. Within 60 calendar days of the completion of the entire monitoring cycle, including any time extensions for corrective action, a wetland boundary survey shall be conducted by a licensed land surveyor or a licensed professional engineer, and shall be based upon the results of monitoring data for soils, vegetation, and hydrology. A calculation shall be made of the total acreage of each wetland type. The boundary and acreage per wetland type shall be shown on the most recent version of the compensation site design plan sheet(s).

Submittals for Success Criteria Monitoring

19. Wetland compensation site monitoring reports shall be submitted by December 31st of the years in which a monitoring report is required, including the final monitoring year, as identified in the approved final compensation plan. The reports shall include the following, at a minimum:

    a. A general description of the compensation site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells (if applicable), and wetland zones;

    b. Summary of activities completed during the monitoring year;

    c. Description of monitoring methods;

    d. An analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams, or other open water areas, as detailed in the final compensation plan;

    e. Evaluation of hydric soils or soils under hydric conditions;

    f. An analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, set forth in the final compensation plan;

    g. Discussion of wildlife or signs of wildlife observed at the compensation site;

    h. Properly labeled photographs as detailed in Part I.P.1;

    i. Comparison of site conditions from the previous monitoring year and/or reference site;

    j. The acreage calculation, shown on the most recent version of the compensation site design plan sheet(s);

    k. A corrective action plan, if necessary, which shall include any proposed actions or maintenance activities, a schedule, and a monitoring plan (e.g., the control of undesirable species, the repair of a damaged water control device, the replacement of damaged, planted vegetation, etc.);

    l. For final monitoring year only, the report shall include all items listed above and the most recent version of the compensation site design plan sheet(s) depicting the final wetland boundary and area calculations, as detailed in Part I.P.17 and 18.

Q. Ground Water

If total groundwater and surface water withdrawals exceed 10,000 gallons per day on average in any month, the permittee shall report the withdrawals to DEQ by January 31st of the following year (in accordance with 9 VAC 25-200-10 et seq.). Reporting shall follow the notification provisions of Part I.C.22, 23, and 24.

R. Surface Water Withdrawals

1. When water elevation of Lake Anna is at or below the 249.75 elevation above mean sea level, this permit authorizes the withdrawal of no more than 0.6 cubic feet per second from Contrary Creek.

2. No water withdrawal activities shall occur when the dam of Lake Anna is releasing less than 40 cubic feet per second.

3. The withdrawal shall not exceed 10% of the instantaneous flow from March 1st through June 30th when the instream flow is less than or equal to 3.5 cubic feet per second.

4. The withdrawal shall not exceed 10% of the instantaneous flow from July 1st through October 31st when the instream flow is less than or equal to 1.8 cubic feet per second.

5. The withdrawal shall not exceed 480,000 gallons per day.

6. After the third nuclear reactor on Lake Anna begins to use water, the permittee may not withdraw any water from Contrary Creek whenever the third nuclear reactor is operating in water conservation mode. It is the responsibility of the permittee to become aware of the conditions that require the third reactor to be in water conservation mode.

7. To prevent the impingement and entrainment of fish eggs, larvae, and other aquatic life, the intake shall be fitted with 1mm intake screen and the designed intake velocity shall not be greater than 0.25 feet per second.

8. After the average flow of effluent to the holding pond exceeds 0.18 million gallons per day for any six month period, no further water withdrawals from Contrary Creek are allowed.

9. Water withdrawn from Contrary Creek shall not be used for purposes other than irrigating the golf course.

10. The permittee shall install and calibrate staff gauge at Lake Anna for the purpose of determining lake level. After commencing water withdrawal activities, the permittee will post the data on-line for public accessibility.

Surface Water Withdrawal Monitoring and Reporting

11. The permittee shall design and calibrate a method to measure in-stream flow of Contrary Creek. The method to measure instream flow shall be approved by DEQ prior to commencing any withdrawal activities.

12. The permittee shall submit the design of the intake structure on Contrary Creek. The intake structure shall be approved by DEQ prior to commencing any withdrawal activities.

13. On each day that the pump is turned on, the permittee shall determine and record the flow in Contrary Creek and the lake elevation. The permittee must read the lake elevation and flow of Contrary Creek a least once every 24 hours when water withdrawals occur on succeeding days. A

single reading will govern water withdrawals allowed under conditions R.1, 2, 3, 4 or 5 for not more than the next 24 hours.

14. Water withdrawal monitoring and reporting activities shall comply with this section, Part I.C, and Part II. All records and information that result from the monitoring and reporting activities required by this permit, including any records of maintenance activities to the withdrawal system, shall be retained for the life of the permit. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or as requested by the State Water Control Board.

15. *For all permittees whose average daily withdrawal during any single month exceeds 10,000 gallons per day*, the water withdrawals shall be reported to DEQ by January 31st of the next year, as required under State Water Control Board (SWCB) Water Withdrawal Reporting Regulation (9 VAC 25-200 et seq.). The annual monitoring report shall contain the following information: the permittee's name and address, the sources and locations of water withdrawal, the cumulative volume of water withdrawn each month of the calendar year, the maximum day withdrawal and the month in which it occurred, and the method of withdrawal measurement.

16. The permittee shall file an annual report that shall contain: for each day that water withdrawals take place, the date, the stream flow, the lake elevation and the amount of water withdrawn. The annual report shall also provide monthly and annual sums of water withdrawn and the effluent flow reported in VPA permit VPA00021.

17. The permittee shall submit a management plan for the sediment and/or precipitate that accumulates in the withdrawal water storage basin. The plan shall be submitted to DEQ within six months of the commencement of treating withdrawal water for pH in the basin. The plan shall include the following information:

    a. The concentrations of PCBs, cadmium, copper, lead, arsenic, and zinc in the accumulated sediment/precipitate in the storage/treatment basin;

    b. A projection of the future concentrations of these constituents;

    c. The anticipated maintenance schedule; and,

    d. A disposal plan for any dredged material from the storage/treatment basin.

Part II – General Conditions

A. Duty to Comply

The permittee shall comply with all conditions of the VWP permit. Nothing in the VWP permit regulations shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and prohibitions. Any VWP permit violation is a violation of the law, and is grounds for enforcement action, VWP permit termination, revocation, modification, or denial of an application for a VWP permit extension or reissuance.

B. Duty to Cease or Confine Activity

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

C. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the permit which may have a reasonable likelihood of adversely affecting human health or the environment.

D. VWP Permit Action

1. A VWP permit may be modified, revoked and reissued, or terminated as set forth in 9 VAC 25-210 et seq.

2. If a permittee files a request for VWP permit modification, revocation, or termination, or files a notification of planned changes, or anticipated noncompliance, the VWP permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective VWP permit. If the permittee wishes to continue an activity regulated by the VWP permit after the expiration date of the VWP permit, the permittee must apply for and obtain a new VWP permit or comply with the provisions of 9 VAC 25-210-185 (VWP Permit Extension).

VWP permits may be modified, revoked and reissued or terminated upon the request of the permittee or other person at the board's discretion, or upon board initiative to reflect the requirements of any changes in the statutes or regulations, or as a result of VWP permit noncompliance as indicated in the Duty to Comply subsection above, or for other reasons listed in 9 VAC 25-210-180 (Rules for Modification, Revocation and Reissuance, and Termination of VWP permits).

E. Inspection and Entry

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP permit conditions;

2. Inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP permit; and

3. Sample or monitor any substance, parameter or activity for the purpose of ensuring compliance with the conditions of the VWP permit or as otherwise authorized by law.

F. Duty to Provide Information

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, reissuing or terminating the VWP permit, or to determine compliance with the VWP permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.

2. Plans, specifications, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

G. Monitoring and Records Requirements

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include:

   a. The date, exact place and time of sampling or measurements;

   b. The name of the individuals who performed the sampling or measurements;

   c. The date and time the analyses were performed;

d. The name of the individuals who performed the analyses;

e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;

f. The results of such analyses; and

g. Chain of custody documentation.

H. Transferability

This VWP permit may be transferred to a new permittee only by modification to reflect the transfer, by revoking and reissuing the permit, or by automatic transfer. Automatic transfer to a new permittee shall occur if:

1. The current permittee notifies the board within 30 days of the proposed transfer of the title to the facility or property;

2. The notice to the board includes a written agreement between the existing and proposed permittee containing a specific date of transfer of VWP permit responsibility, coverage and liability to the new permittee, or that the existing permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; and

3. The board does not within the 30-day time period notify the existing permittee and the new permittee of its intent to modify or revoke and reissue the VWP permit.

I. Property rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

J. Reopener

Each VWP permit shall have a condition allowing the reopening of the VWP permit for the purpose of modifying the conditions of the VWP permit to meet new regulatory standards duly adopted by the board. Cause for reopening VWP permits includes, but is not limited to when the circumstances on which the previous VWP permit was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change, since the time the VWP permit was issued and thereby constitute cause for VWP permit modification or revocation and reissuance.

K. Compliance with State and Federal Law

Compliance with this VWP permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

L. Severability

The provisions of this VWP permit are severable.

M. Permit Modification

A VWP permit may be modified, but not revoked and reissued except when the permittee agrees or requests, when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of VWP permit conditions that differ from those of the existing VWP permit or are absent from it;

2. When new information becomes available about the operation or activity covered by the VWP permit which was not available at VWP permit issuance and would have justified the application of different VWP permit conditions at the time of VWP permit issuance;

3. When a change is made in the promulgated standards or regulations on which the VWP permit was based;

4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Act;

5. When changes occur which are subject to "reopener clauses" in the VWP permit; or

6. When the board determines that minimum instream flow levels resulting from the permittee's withdrawal of water are detrimental to the instream beneficial use and the withdrawal of water should be subject to further net limitations or when an area is declared a Surface Water Management Area pursuant to §§ 62.1-242 through 62.1-253 of the Code of Virginia, during the term of the VWP permit.

N. Permit Termination

After notice and opportunity for a formal hearing pursuant to Procedural Rule No. 1 (9 VAC 25-230-100) a VWP permit can be terminated for cause. Causes for termination are as follows:

1. Noncompliance by the permittee with any condition of the VWP permit;

2. The permittee's failure in the application or during the VWP permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

3. The permittee's violation of a special or judicial order;

4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by VWP permit modification or termination;

5. A change in any condition that requires either a temporary or permanent reduction or elimination of any activity controlled by the VWP permit; and

6. A determination that the permitted activity has ceased and that the compensatory mitigation for unavoidable adverse impacts has been successfully completed.

O. Civil and Criminal Liability

Nothing in this VWP permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and Hazardous Substance Liability

Nothing in this VWP permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Unauthorized Discharge of Pollutants

Except in compliance with this VWP permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses;

4. On or after October 1, 2001 conduct the following activities in a wetland:

a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;

b. Filling or dumping;

c. Permanent flooding or impounding;

d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

R. Permit Extension

Any permittee with an effective VWP permit for an activity that is expected to continue after the expiration date of the VWP permit, without any change in the activity authorized by the VWP permit, shall submit written notification requesting an extension. The permittee must file the request prior to the expiration date of the VWP permit. Under no circumstances will the extension be granted for more than 15 years beyond the original effective date of the VWP permit. If the request for extension is denied, the VWP permit will still expire on its original date and, therefore, care should be taken to allow for sufficient time for the board to evaluate the extension request and to process a full VWP permit modification, if required.

DEPARTMENT OF THE ARMY
NORFOLK DISTRICT CORPS OF ENGINEERS
FORT NORFOLK 803 FRONT STREET
NORFOLK, VIRGINIA 23510-1096

CENAO-WRR

REGIONAL PROGRAMATIC GENERAL PERMIT 12-SPGP-01

Effective Date: May 31, 2012 **Expiration Date: May 31, 2017**

I. AUTHORITIES: 12-SPGP-01 authorizes the discharge of dredged or fill material in nontidal waters, of the United States, including wetlands, associated with certain residential, commercial, and institutional developments and linear transportation projects within the geographical limits of the Commonwealth of Virginia and under the regulatory jurisdiction of the U.S. Army Corps of Engineers, Norfolk District (Corps or Norfolk District). These projects must have no more than minimal individual and cumulative impacts and must meet all the terms and conditions outlined herein. The use of 12-SPGP-01 is restricted to those projects that have avoided and minimized impacts to waters of the U.S., including wetlands, to the maximum extent practicable.

The people of the Commonwealth of Virginia (Virginia or "the Commonwealth") are hereby authorized by the Secretary of the Army and the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403) and Section 404 of the CWA (33 U.S.C. § 1344), to perform the aforementioned work in nontidal waters and wetlands of the Commonwealth as described herein. The Corps' authority and guidance to develop general permits is contained in 33 U.S.C. § 1344(e) and 33 C.F.R. § 325.2(e)(2), 33 C.F.R. § 325.3(b), and Corps Regulatory Guidance Letter 83-7.

II. PROCEDURES:

A. Delineation Confirmations: Prior to the submission of an application for any Residential, Commercial, or Institutional Development Activity or Linear Transportation Activity covered by 12-SPGP-01, a proponent must first obtain a confirmed delineation of all waters of the U.S., including wetlands, and Virginia state surface waters on the property. The applicant will contact the Corps to obtain a delineation confirmation. A confirmed delineation is not required for Virginia Department of Transportation (VDOT) linear transportation projects (these projects must adhere to separate, but similar, procedures). When appropriate a delineation confirmation may also be required from the Environmental Protection Agency (EPA).

B. Application: Applicants must use the newest version of Joint Permit Applications (JPAs) and submit these applications to the Virginia Marine Resources Commission (VMRC). The applicable Virginia Water Protection (VWP) permit regulations define the information required for a complete VWP permit application (see 9 VAC 25-210-80, 9 VAC 25-660-50, 9 VAC 25-670-50, 9 VAC 25-680-50, and 9 VAC 25-690-50). This information, plus a confirmed

delineation from the Corps with associated map(s) and data sheets, will be required to render an application complete for 12-SPGP-01 purposes. VDOT will submit the Inter-Agency Coordination Meeting JPA or the VDOT Reporting Only Spreadsheet. A joint permit application may be obtained through the following link:
http://www.nao.usace.army.mil/Regulatory_Branch/JPA.asp

C. State Approvals: In order for 12-SPGP-01 to be valid, permittees must obtain the following state approvals prior to commencement of work in waters of the U.S.:

1. Virginia Department of Environmental Quality (VDEQ) VWP permit and
2. VMRC permit, when required

For the purpose of resolving non-compliance and/or enforcement actions the 12-SPGP-01 may be issued or modified in conjunction with a VDEQ informal resolution, letter of agreement, executive compliance agreement or consent order. Authorizations under 12-SPGP-01 also require that permittees ensure that their projects are designed and constructed in a manner consistent with all state and local requirements pursuant to the Chesapeake Bay Preservation Act (Virginia Code 10.1-2100 *et seq.*) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 *et seq.*), the Virginia Erosion and Sediment Control Regulations (4 VAC 30-50-10 *et seq.*), and the Virginia Stormwater Management Program (VSMP) Permit Regulation (4 VAC 50-60-10 *et seq.*). Authorizations under 12-SPGP-01 do not supersede state or local government authority or responsibilities pursuant to the Act.

D. Definitions:

a. For purposes of 12-SPGP-01, "loss" of waters of the U.S., including wetlands, shall be defined as filling (including placement of pipes or other water conveyances in waters) and other permanent adverse effects, including mechanized landclearing, permanent conversion, excavation (including channelization), flooding, draining, etc. The acreage/linear footage of loss of waters of the U.S. is the threshold measurement of the impact to existing waters, including wetlands, for determining whether a project may qualify for 12-SPGP-01; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and values.

b. For purposes of 12-SPGP-01, "natural stream design" means that the channel should mimic the dimension, pattern, and profile of a representative reference stream reach.

c. For purposes of 12-SPGP-01, VDEQ is the state agency responsible for ensuring permit applications meet the informational and technical requirements of the 12-SPGP-01 and for issuance of 12-SPGP-01 authorizations for qualifying Residential, Commercial, Institutional and Linear Transportation projects.

d. For purposes of 12-SPGP-01, the "permittee" will be the responsible party in receipt of the 12-SPGP-01 authorization from the VDEQ. The permittee will be the responsible party for complying with all 12-SPGP-01 general conditions as well as any additional special conditions required of each project.

e. For purposes of 12-SPGP-01, "lateral encroachment" is when a road, utility or other project encroaches into waters of the U.S., including wetlands, but does not cross the resource perpendicularly or diagonally.

III. AUTHORIZED ACTIVITIES

A. Residential, Commercial, and Institutional Development Activities:

a. **Eligibility Criteria:**

i. Activities are subject to Corps jurisdiction;

ii. Activity involves the discharge of dredged or fill material associated with residential, commercial, and institutional projects causing the permanent loss of not more than one acre of nontidal wetlands or open waters or the permanent loss of not more than 2,000 linear feet of stream channel, unless otherwise excluded by 12-SPGP-01;

iii. Activity meets the general conditions of 12-SPGP-01 listed on pages 7-14 and any special conditions required of each project-specific authorization;

iv. Compensatory mitigation is provided in accordance with the mitigation standards and general conditions on pages 10 -11; and

v. Discharges associated with residential, commercial, and institutional development activities include those outlined in the VDEQ's General Permits (see 9 VAC 25-660 *et seq.*, 9 VAC 25-670 *et seq.*, 9 VAC 25-680 *et seq.*, and 9 VAC 25-690 *et seq.)* and are associated with the construction or expansion of residential, commercial, or institutional building foundations, building pads, and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, stormwater management facilities, and recreational facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development). Residential developments include multiple and single unit developments. Commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship. For residential, commercial, and institutional developments, the aggregate permanent loss of waters of the U.S. cannot exceed one acre of nontidal wetlands or open water; or 2,000 linear feet of stream.

vi. Residential, commercial, or institutional developments are consistent with the Corps' subdivision guidance dated March 15, 1993 and June 2, 1999, the Corps' and VDEQs' joint subdivision guidance dated June, 2007 and/or any subsequent guidance that supersedes or supplements those documents.

b. **Federal Screening Procedures:**

i. All residential, commercial, and institutional development activities that will cause or result in impacts to tidal waters, including wetlands, and/or permanent impacts that exceed ½ acre of non-tidal wetlands or open waters and/or exceed 300 linear feet of stream channel will be coordinated with the Corps, the U.S. Environmental Protection Agency (EPA), and the U.S. Fish and Wildlife Service (FWS) for federal review.

ii. If EPA or FWS determines that there are project-specific concerns regarding avoidance and/or minimization of impacts to the aquatic environment or concerns regarding the amount and/or type of compensatory mitigation being proposed, the applicant will be required to address those concerns. If the concerns are not addressed to the satisfaction of the objecting agency(ies), the Corps District Commander may exert his/her discretionary authority to require the project to be processed under the Corps' individual permit process.

iii. Any Corps' concerns shall be relayed to the VDEQ and addressed during the VDEQ permitting process. If concerns are not satisfied through that process, the Corps District Commander may exert his/her discretionary authority to require the project to be processed under an alternate Corps permitting process, possibly as an individual permit.

B. **Linear Transportation Activities:**

a. **Eligibility Criteria:**

i. Activities are subject to Corps jurisdiction;

ii. Activities involve the discharge of dredged or fill material associated with the construction, expansion, modification, or improvement of linear transportation projects not causing the permanent loss of more than 1/3 acre of waters of the U.S., including wetlands, at any single impact site with independent utility, unless otherwise excluded by 12-SPGP-01;

iii. Activity meets all general conditions of 12-SPGP-01 listed on pages 7-14 and any special conditions required of each project-specific authorization;

iv. Compensatory mitigation is provided for all unavoidable impacts to wetlands;

v. Compensatory mitigation is provided for all unavoidable stream impacts where total permanent impacts exceed 300 linear feet of stream channel (or mitigation for any lower level of impact if it is determined that it is necessary to ensure that a project's impacts are minimal in nature) in accordance with the mitigation standards general condition on pages 10-11. Stream relocation using natural stream design may be considered self-mitigating, as determined on a case-by-case basis;

vi. Lateral encroachments may be authorized by the 12-SPGP-01 if the project meets the following criteria:

1. Impacts due to all project lateral encroachments, including stream relocations, do not exceed 1/3 acre of waters of the United States or 2,000 linear feet of stream channel;

2. Total project lateral encroachments do not cause the permanent loss of more than 300 linear feet of stream channel due to the installation of piping, riprap, concrete, etc;

3. All project lateral encroachments exceeding 300 linear feet of stream channel are performed using natural stream design (unless waived in writing); and

4. Impacts due to lateral encroachment(s), new alignment projects and/or projects that impact the same aquatic resources multiple times will be considered cumulative for the entire project regardless of whether segments of that project may have independent utility;

vii. Discharges associated with linear transportation projects include the construction, expansion, modification, or improvement of highways, roads, railways, trails, and airport runways and taxiways. Construction and/or relocation of utility lines within the right-of-way/easements of the project and performed in direct relation with the project are covered under this activity, with impacts counting toward permit thresholds.

b. **Federal Screening Procedures:**

i. All linear transportation activities involving permanent impacts that exceed 300 linear feet of stream channel at any single impact area OR containing multiple single and complete impact areas on the same project that additively exceed 1/3 acre of impact to waters of the United States, including wetlands and/or exceed 300 linear feet of stream channel (lateral or crossing impact) will be reviewed by the Corps, the EPA, and the FWS.

ii. If EPA or FWS determines that there are project specific concerns regarding avoidance and/or minimization of impacts to the aquatic environment or the amount and/or type of compensatory mitigation being proposed, the applicant will be required to address those concerns. If the concerns are not addressed to the satisfaction of the objecting agency(ies), the Corps District Commander may exert his/her discretionary authority to require the project to be processed under the Corps' individual permit process.

iii. Any Corps' concerns shall be relayed to the VDEQ and addressed during the VDEQ permitting process. If concerns are not satisfied through that process, the Corps District Commander may exert his/her discretionary authority to require the project to be processed under an alternate Corps permitting process.

c. **VDOT Reporting-Only Procedures:** VDOT may report by spreadsheet on a monthly basis to the VDEQ those VDOT projects meeting the following eligibility criteria:

i. Permanent impacts do not exceed 1/10 acre of waters of the United States, including wetlands; the definition of independent utility must be applied when determining permanent impact totals;

ii. Section 7 – Endangered Species Act Review has been completed, includes FWS concurrence with findings, if needed;

iii. Section 106 finding of "No Effect" has been reviewed and approved by the VDEQ-Cultural Resource Specialist; and

iv. For projects with cumulative impacts exceeding 300 linear feet of stream channel, a pre-coordination email will be sent to the Corps with a project description, impacts, topographic quadrangle and photos. The VDEQ and VDOT Central Office will be copied on the email. If the Corps **concurs** that project can be included on the spreadsheet, VDOT will include the Corps concurrence email with the spreadsheet submittal. No additional Norfolk District review will be required. If the Corps **does not concur** that project can be included on the spreadsheet, VDOT will submit a JPA through its interagency coordination meeting and will include the Corps' response email in the application.

C. **Exclusions from Coverage:** The following activities and resources areas are excluded from coverage by 12-SPGP-01 and require different types of Corps permits:

a. Conversion of waters and/or wetlands for agricultural production and agriculture-related activities (crop fields or pasture); farm buildings; grain storage facilities; grassed waterways; low water crossings; impoundments for irrigation, livestock watering, and fire prevention purposes; animal feeding operations; waste storage facilities; and farm access roads;

b. Wetland areas composed of 10% or more of the following species (singly or in combination) in any stratum: Atlantic white cedar (*Chamaecyparis thyoides*), bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*), or overcup oak (*Quercus lyrata*) (Percentages may be based on stem counts, basal area, or percent aerial cover);

c. Wetland areas underlain by histosols (Histosols are organic soils that are often called mucks, peats, or mucky peats. The list of histosols includes, but is not limited to, the following soil series: Back Bay, Belhaven, Dorovan, Lanexa, Mattamuskeet, Mattan, Palms, Pamlico, Pungo, Pocaty, and Rappahannock;

d. Placement of septic tanks (does not include alternate onsite sewer systems);

e. Residential gardening, lawn maintenance and landscaping;

f. Construction of extended-detention basins and enhanced extended-detention basins designed, constructed, and maintained to function in accordance with the current Virginia Department of Conservation and Recreation (DCR) standards for such facilities or local standards that, at a minimum meet the DCR standards, unless the following requirements are met:

i. The area within the entire basin and back-flooding limits are considered as permanent impacts. For the purposes of the 12-SPGP-01, back-flooding limits are defined as

back-flooding that will not be released within 24 hours if the activity is east of I-95, or back-flooding that will not be released within 48 hours if the activity is west of I-95.

ii. The proposed basins are attendant features associated with a "single and complete" residential, commercial, institutional or linear transportation project;

g. Construction or maintenance of farm or stock ponds that do not fall under the authority of the Virginia Soil and Water Conservation Board pursuant to Article 2 (§10.1-604 *et seq.*) of Chapter 6 pursuant to normal agricultural or silvicultural activities; and

h. Discharges of dredged or fill material associated with residential, commercial, and institutional activities causing the permanent loss of more than one acre of nontidal wetlands or open waters or waters or over 2,000 linear feet of stream channel.

IV. GENERAL CONDITIONS: The following conditions apply to all activities authorized under 12-SPGP-01. Work that does not meet one or more of the terms and general conditions of 12-SPGP-01, including work that has been determined to be more than minimal in nature (at any impact level), will require consideration under a different type of Corps permit.

1. **Other permits.** Authorization does not obviate the need to obtain other Federal, state, or local authorizations required by law or to comply with all Federal, state, or local laws.

2. **Minimal effects.** Projects authorized shall have no more than minimal individual or cumulative adverse environmental impacts, as determined by the Corps.

3. **Discretionary authority.** The Corps District Commander retains discretionary authority to require processing of an individual permit based on concerns for the aquatic environment or for any other factor of the public interest (33 C.F.R. § 320.4(a)). This authority is exercised on a case-by-case basis.

4. **Single and complete projects.** 12-SPGP-01 shall only be applied to single and complete projects. For purposes of 12-SPGP-01, a single and complete project means the total project proposed or accomplished by one owner/developer or partnership and which has independent utility. For linear transportation projects with multiple crossings or encroachments a determination of "single and complete" will typically apply to each crossing of waters that occurs (i.e., single waterbody and/or wetlands) at separate and distinct locations and with independent utility. However, in cases where there are many crossings in close proximity, numerous crossings of the same waterbody, multiple crossings, or multiple encroachments that otherwise may have more than minimal individual or cumulative impacts; the Corps has the discretion to consider all the crossings cumulatively as one single and complete project.

5. **Independent utility.** A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as a separate, single and complete project with independent utility. For a linear transportation project,

separate impact areas on a new location roadway are not considered to have independent utility thus impacts would be considered cumulatively and eligible for a single 12-SPGP-01 authorization. However, separate impact areas on a roadway that is being widened or where pipes are being replaced at multiple crossings are considered to have independent utility, and each crossing would be considered eligible for a separate 12-SPGP-01 authorization (impacts are not considered cumulatively for permitting, but are considered cumulatively when assessing the need for federal review).

6. **Multiple general permit authorizations.** The 12-SPGP-01 may be combined with other Corps general permits (including Nationwide, Regional or Letters of Permission) as long as the impacts are considered cumulatively and do not exceed the acreage limit or linear foot limits of the 12-SPGP-01. Two separate activities (e.g., Activity A and B), within 12-SPGP-01, may be combined as long as they do not exceed the acreage or linear footage threshold of the activity with the highest specified acreage or linear footage threshold.

7. Permit on-site. The permittee shall ensure that a copy of 12-SPGP-01 and the accompanying authorization letter are at the work site at all times. These copies must be made available to any regulatory representative upon request. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be expected to comply with all conditions of any 12-SPGP-01 authorization.

General Conditions Related to other federal laws or programs:

8. Historic Properties. Any activity authorized shall comply with Section 106 of the National Historic Preservation Act. If the permittee, during construction or work authorized herein, encounters a previously unidentified archaeological or other cultural resource, he/she must immediately stop work and notify the Corps and the VDEQ of what has been found. Coordination with the Virginia Department of Historic Resources will commence and the permittee will subsequently be advised when he/she may recommence work.

9. Tribal Rights. No activity authorized may impair reserved tribal rights, including, but not limited to, reserved water rights, treaty fishing and hunting rights.

10. Federal Lands. Authorized activities shall not impinge upon the value of any National Wildlife Refuge, National Forest, National Park, or any other area administered by the FWS, U.S. Forest Service, or National Park Service unless approval from the applicable land management agency is provided with the permit application.

11. Endangered Species. No activity is authorized under this 12-SPGP-01which may affect a proposed/listed threatened or endangered species or proposed/listed critical habitat (as identified under the Federal Endangered Species Act (ESA)), is likely to jeopardize the continued existence of such species or which will destroy or adversely modify the critical habitat of such species unless Section 7 consultation addressing the effects of the proposed activity has been completed.

a. Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the VDEQ and Corps with the appropriate documentation to demonstrate compliance with those requirements.

b. Non-federal permittees shall notify the VDEQ and Corps if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the VDEQ or Corps that the requirements of the ESA have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the USFWS at: http://www.fws.gov/northeast/virginiafield/endspecies/Project_Reviews.html and/or NOAA Fisheries Habitat Conservation Division, P.O. Box 1346, 7580 Spencer Road, Gloucester Point, VA 23062.

c. Section 7 coordination will be performed in accordance with the NAO ESA Review Process. The applicant may not begin work until the VDEQ or Corps has notified them that the Section 7 consultation has been completed.

d. As a result of formal or informal consultation with the FWS or NOAA Fisheries the Corps District Commander may add species-specific regional endangered species conditions to the 12-SPGP-01.

e. Authorization of an activity by 12-SPGP-01 does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the FWS or the NOAA Fisheries, both lethal and non-lethal "takes" of protected species are in violation of the ESA.

12. Bald and Golden Eagle Protection Act. The bald eagle (*Haliaeetus leucocephalus*) is no longer a federally listed threatened or endangered species; therefore, the Endangered Species Act provisions are not applicable to this species. The Bald and Golden Eagle Protection Act (BGEPA) does not require that a federal agency involved in permitting the proposed action conduct coordination. The coordination under the BGEPA is the responsibility of the applicant. The applicant should either obtain a FWS bald eagle take permit or a letter of concurrence from FWS indicating that a permit is not necessary prior to initiating construction activities. You should contact FWS concerning this matter at U.S. Fish and Wildlife Service, Virginia Field Office, ATTN: Kim Smith, 6669 Short Lane, Gloucester, VA 23061. Information on active bald eagle nests in the project area can be obtained via The Center for Conservation Biology (CCB) Virginia Eagles Nest Locator: http://www.ccb-wm.org/virginiaeagles/index.htm.

13. Wild and Scenic Rivers. Currently, there are no designated Wild and Scenic Rivers in the Commonwealth of Virginia; however, the portion of the Upper New River from Glen Lyn, Virginia to the West Virginia/Virginia state line was designated a "study river" by Congress on October 26, 1992. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status, unless the appropriate Federal agency

with direct management responsibility for such river has determined, in writing, that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Impacts that occur in these resource areas will require coordination with the appropriate Federal agency.

14. Department of Defense (DOD) Siting Clearinghouse Coordination. For all commercial and institutional development projects that include the construction of wind energy generating structures, solar towers, or overhead powerlines the VDEQ must coordinate the project with the DOD Clearinghouse. The VDEQ will send a copy of the joint permit application and SPGP authorization to the following address: Department of Defense Clearinghouse, Attn: Mr. Marshal Williams and Mr. Davis Blalock, 101 Marietta St., NW, Suite 3120, Atlanta, George 30303 or via email to: Frederick.m.williams28.civ@mail.mil and David.c.blalock2.civ@mail.mil.

15. Federal navigation projects. Authorized activities may not interfere with any existing or proposed Federal navigation projects.

16. Navigation. (a) No authorized activity may cause more than a minimal adverse effect on navigation. (b) The permittee understands and agrees that if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his/her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

17. Floodplains. All practicable efforts shall be made to conduct the work authorized by 12-SPGP-01 in a manner so as to avoid any adverse impact on the Federal Emergency Management Agency (FEMA) designated 100-year floodplain.

18. Real estate. Activities authorized under 12-SPGP-01 do not grant any Corps or Federal real estate rights. If real estate rights are needed from the Corps, you must contact the Corps Real Estate Office at (757) 201-7735 or at the address listed on the front page of this permit.

19. Environmental justice. Activities authorized under 12-SPGP-01 must comply with Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations".

20. Federal liability. In issuing 12-SPGP-01, the Federal government does not assume any liability for the following: (a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; (b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; (c) damages to persons, property, or to other permitted or

unpermitted activities or structures caused by the activity authorized by 12-SPGP-01; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension, or revocation of this permit.

General Conditions Related to Minimizing Environmental Impacts:

21. Avoidance and minimization. Except as provided under section 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.(40 CFR 230.10(a) Section 404 (b)(1) Guidelines).

22. Mitigation standards.

a. Wetland mitigation will generally be required for all residential, commercial, and institutional development projects where the total permanent impacts exceed 1/10 acre **AND** for all impacts on linear transportation projects. Generally, the minimum required wetland mitigation ratios will be as follows: 2:1 for forested wetlands, 1.5:1 for scrub-shrub wetlands, 1:1 for herbaceous emergent wetlands, and 1:1 for conversion of forested wetlands to herbaceous emergent wetlands. Mitigation for open waters impacts will be determined by the project manager on a case-by-case basis. All wetland mitigation will comply with the Corps-EPA Compensatory Mitigation for Losses of Aquatic Resources dated April 10, 2008 (33 CFR 325 and 332/40 CFR 230).

b. Stream mitigation will generally be required for all residential, commercial, institutional developments AND linear transportation projects where the total permanent stream channel impacts exceed 300 linear feet. Minimum stream mitigation requirements will be determined using the current Corps and the VDEQ endorsed assessment methodology. All stream mitigation will comply with Corps-EPA Compensatory Mitigation for Losses of Aquatic Resources dated April 10, 2008 (33 CFR 325 and 332; 40 CFR 230).

c. For the purposes of the 12-SPGP-01, definitions for enhancement, establishment (creation), preservation, and re-establishment will be consistent with the definitions listed in the Corps-EPA Compensatory Mitigation for Losses of Aquatic Resources dated April 10, 2008 (33 CFR 325 and 332; 40 CFR 230).

d. Where local zoning ordinances provide for riparian and floodplain protection pursuant to the Chesapeake Bay Preservation Act (Virginia Code 10.1-2100 *et seq.*) and the Chesapeake Bay Preservation Area Designation and Management Regulations(9 VAC 1-20 *et seq.*), the use of buffers as a form of compensatory mitigation shall be allowed only (a) where the extent of the buffer exceeds the lateral extent already required by local ordinances pursuant to the Act and the regulations or (b) where the quality of the existing protected buffer *area* is enhanced to provide greater water quality protection benefits.

23. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

24. Temporary fills. All temporarily disturbed waters and wetlands must be restored to their pre-construction contours within 6 months of commencing the temporary impact's construction. Impacts that will not be restored within 6 months (calculated from the start of the temporary impacts construction) will be considered permanent unless otherwise approved by the 12-SPGP-01. Once restored to their natural contours, soil in these areas must be mechanically loosened to a depth of 12 inches and wetland areas must be seeded or sprigged with appropriate native vegetation.

25. Sedimentation and erosion control. Appropriate erosion and sediment controls must be employed and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark, must be permanently stabilized at the earliest practicable date.

26. Aquatic life movements. Following consultation with the Virginia Department of Game and Inland Fisheries (DGIF), the Norfolk District has determined that fish and other aquatic organisms are most likely present in any stream being crossed, in the absence of site-specific evidence to the contrary. Although prospective permittees have the option of providing such evidence, extensive efforts to collect such information is not encouraged, since countersinking will in most cases be required with some exceptions as outlined below:

a. Pipes should be adequately sized to allow for the passage of ordinary high water with the countersinking and invert restrictions taken into account.

b. All pipes and culverts placed in streams will be countersunk at both the inlet and outlet ends, unless indicated otherwise by the Norfolk District on a case-by-case basis (see below). Pipes that are 24" or less in diameter shall be countersunk 3" below the natural stream bottom. Pipes that are greater than 24" in diameter shall be countersunk 6" below the natural stream bottom. The countersinking requirement does not apply to bottomless pipes/culverts or pipe arches. All single pipes or culverts (with bottoms) shall be depressed (countersunk) below the natural streambed at both the inlet and outlet of the structure. In sets of multiple pipes or culverts (with bottoms) at least one pipe or culvert shall be depressed (countersunk) at both the inlet and outlet to convey low flows.

c. Extensions and certain maintenance: The requirement to countersink does not apply to extensions of existing pipes or culverts that are not countersunk, or to maintenance to pipes/culverts that does not involve replacing the pipe/culvert (such as repairing cracks, adding material to prevent/correct scour, etc.).

d. Floodplain pipes: The requirement to countersink does not apply to pipes or culverts that are being placed above ordinary high water, such as those placed to allow for floodplain flows. The placement of pipes above ordinary high water is not jurisdictional (provided no fill is discharged into wetlands).

e. Pipes on bedrock or above existing utility lines: Different procedures will be followed for pipes or culverts to be placed on bedrock or above existing buried utility lines where it is not

practicable to relocate the lines, depending on whether the work is for replacement of an existing pipe/culvert or a new pipe/culvert:

i. Replacement of an existing pipe/culvert: Countersinking is not required provided the elevations of the inlet and outlet ends of the replacement pipe/culvert are no higher above the stream bottom than those of the existing pipe/culvert. Documentation (photographic or other evidence) must be maintained in the permittee's records showing the bedrock condition and the existing inlet and outlet elevations. That documentation will be available to the Norfolk District upon request, but notification or coordination with the Norfolk District is not otherwise required.

ii. Replacement in a new location: If the prospective permittee determines that bedrock or an existing buried utility line that is not practicable to relocate prevents countersinking, he/she should evaluate the use of a bottomless pipe/culvert, bottomless utility vault, span (bridge) or other bottomless structure to cross the waterway, and also evaluate alternative locations for the new pipe/culvert that will allow for countersinking. If the prospective permittee determines that neither a bottomless structure nor an alternative location is practicable, then he/she must submit a pre-construction notification (PCN) to the Norfolk District in accordance with General Condition 31 of the NWPs. In addition to the information required by General Condition 31, the prospective permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. Options that must be considered include partial countersinking (such as less than 3" of countersinking, or countersinking of one end of the pipe), and constructing stone step pools, low rock weirs downstream, or other measures to provide for the movement of aquatic organisms. The PCN must also include photographs documenting site conditions. The prospective permittee may find it helpful to contact his/her regional fishery biologist for the Virginia Department of Game and Inland Fisheries (VDGIF), for recommendations about the measures to be taken to allow for fish movements. When seeking advice from VDGIF, the prospective permittee should provide the VDGIF biologist with all available information such as location, flow rates, stream bottom features, description of proposed pipe(s), slopes, etc. Any recommendations from VDGIF should be included in the PCN. The Norfolk District will notify the prospective permittee whether the proposed work qualifies for the nationwide permit within 45 days of receipt of a complete PCN. NOTE: Blasting of stream bottoms through the use of explosives is not acceptable as a means of providing for countersinking of pipes on bedrock.

f. Pipes on steep terrain: Pipes being placed on steep terrain (slope of 5% or greater) must be countersunk in accordance with the conditions above and will in most cases be non-reporting. It is recommended that on slopes greater than 5%, a larger pipe than required be installed to allow for the passage of ordinary high water in order to increase the likelihood that natural velocities can be maintained. There may be situations where countersinking both the inlet and outlet may result in a slope in the pipe that results in flow velocities that cause excessive scour at the outlet and/or prohibit some fish movement. This type of situation could occur on the side of a mountain where falls and drop pools occur along a stream. Should this be the case, or should the prospective permittee not want to countersink the pipe/culvert for other reasons, he/she must submit a Pre-Construction Notification to the Norfolk District in accordance with General Condition 31 of the Nationwide Permits. In addition to the information required by General

Condition 31, the prospective permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. The prospective permittee should design the pipe to be placed at a slope as steep as stream characteristics allow, countersink the inlet 3-6", and implement measures to minimize any disruption of fish movement. These measures can include constructing a stone step/pool structure, preferably using river rock/native stone rather than riprap, constructing low rock weirs to create a pool or pools, or other structures to allow for fish movements in both directions. Stone structures should be designed with sufficient-sized stone to prevent erosion or washout and should include keying-in as appropriate. These structures should be designed both to allow for fish passage and to minimize scour at the outlet. The quantities of fill discharged below ordinary high water necessary to comply with these requirements (i.e., the cubic yards of stone, riprap or other fill placed below the plane of ordinary high water) must be included in project totals. The prospective permittee may find it helpful to contact his/her regional fishery biologist for the Virginia Department of Game and Inland Fisheries (DGIF), for recommendations about the measures to be taken to allow for fish movements. When seeking advice from DGIF, the prospective permittee should provide the DGIF biologist with all available information such as location, flow rates, stream bottom features, description of proposed pipe(s), slopes, etc. Any recommendations from DGIF should be included in the PCN. The Norfolk District will notify the prospective permittee whether the proposed work qualifies for the nationwide permit within 45 days of receipt of a complete PCN.

g. Problems encountered during construction: When a pipe/culvert is being replaced, and the design calls for countersinking at both ends of the pipe/culvert, and during construction it is found that the streambed/banks are on bedrock, then the permittee must stop work and contact the Norfolk District (contact by telephone and/or email is acceptable). The permittee must provide the Norfolk District with specific information concerning site conditions and limitations on countersinking. The Norfolk District will work with the permittee to determine an acceptable plan, taking into consideration the information provided by the permittee, but the permittee should recognize that the Norfolk District could determine that the work will not qualify for a nationwide permit.

h. Emergency pipe replacements: In the case of an emergency situation, such as when a pipe/culvert washes out during a flood, a permittee is encouraged to countersink the replacement pipe at the time of replacement, in accordance with the conditions above. However, if conditions or timeframes do not allow for countersinking, then the pipe can be replaced as it was before the washout, but the permittee will have to come back and replace the pipe/culvert and countersink it in accordance with the guidance above. In other words, the replacement of the washed out pipe is viewed as a temporary repair, and a countersunk replacement should be made at the earliest possible date. The Norfolk District must be notified of all pipes/culverts that are replaced without countersinking at the time that it occurs, even if it is an otherwise non-reporting activity, and must provide the permittee's planned schedule for installing a countersunk replacement (it is acceptable to submit such notification by email). The permittee should anticipate whether bedrock or steep terrain will limit countersinking, and if so, should follow the procedures outlined in (f) and/or (g) above.

27. Discharge of pollutants. All authorized activities involving any discharge of pollutants into waters of the United States shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the CWA (33 U.S.C. § 1251 *et seq.*) and applicable state and local laws. No discharge of dredged or fill material in association with this authorization may consist of unsuitable material such as trash, debris, car bodies, asphalt, etc.

28. Obstruction of high flows. Discharges of dredged or fill material must not permanently restrict or impede the passage of normal or expected high flows.

29. Waterbird breeding areas. Discharges of dredged or fill material into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

30. Native trout and anadromous fishes. Authorizations for discharges of dredged or fill material into native trout waters or anadromous fish spawning areas are conditioned to limit in-stream work within the timeframes recommended by the DGIF.

31. Water supply intakes. No discharge of dredged or fill material may occur in proximity of a public water supply intake.

32. Invasive Species. Plant species on the most current *Virginia Department of Conservation and Recreation's Invasive Alien Plant List* shall not be used for replanting activities authorized by the SPGP. The list of invasive plants in Virginia may be found at: http://www.dcr.virginia.gov/natural_heritage/documents/invlist.pdf.

General Procedural Conditions:

33. Inspections. The permittee understands and agrees that the Corps and/or the VDEQ are permitted and allowed to make periodic inspections at any time the Corps or VDEQ deems necessary in order to assure that the activities being performed under authority of this permit are in accordance with the terms and conditions prescribed herein. The Corps reserves the right to require post-construction engineering drawings and/or surveys of any work authorized under12-SPGP-01, as deemed necessary on a case-by-case basis.

34. Maintenance. The permittee shall maintain the work authorized herein in good condition and in conformance with all terms and conditions of this permit. All fills shall be properly maintained to ensure public safety.

35. Property rights.12-SPGP-01 does not convey any property rights, either in real estate or material, or convey any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, state, or local laws or regulations.

36. Modification, suspension, and revocation.12-SPGP-01 and individual verificationsunder12-SPGP-01 maybe either modified, suspended, or revoked in whole or in part pursuant to the policies and procedures of 33 C.F.R. § 325.7. Any such action shall notbe the basis for any claim for damages against the United States.

37. Restoration directive. The permittee, upon receipt of a restoration directive, shall restore the waters of the United States to their former conditions without expense to the United States and as directed by the Secretary of the Army or his/her authorized representative. If the permittee fails to comply with such a directive, the Secretary or his/her designee, may restore the waters of the United States to their former conditions, by contract or otherwise, and recover the cost from the permittee.

38. Special conditions. The Corps may impose other special conditions on a project authorized pursuant to 12-SPGP-01 that are determined necessary to minimize adverse navigational and/or environmental effects or based on any other factor of the public interest. Failure to comply with all conditions of the authorization, including special conditions, constitutes a permit violation and may subject the permittee, or his/her contractor, to criminal, civil, or administrative penalties and/or restoration.

39. False or incomplete information. In granting authorization pursuant to this permit, the Corps has relied upon information and data provided by the permittee. If, subsequent to notification by the Corps or the VDEQ that a project qualifies for this permit, such information and data prove to be materially false or materially incomplete, the Corps may suspend or revoke authorization, in whole or in part, and/or the United States or Corps may institute appropriate legal proceedings.

40. Abandonment. If the permittee decides to abandon the activity authorized under12-SPGP-01, unless such abandonment is merely the transfer of property to a third party, he/she may be required to restore the area to the satisfaction of the Corps.

41. Transfer of authorization. In order to transfer authorization under12-SPGP-01, the transferee and permittee must supply the Corps and the VDEQ with a written and signed, by all appropriate parties, request to make such a transfer. Such transfer is not effective until written approval has been granted by the Corps or the VDEQ.

42. Binding effect. The provisions of the permit authorization shall be binding on any assignee or successor in interest of the original permittee.

General Conditions Regarding Duration of Authorizations:

43. Duration of authorization. Activities authorized under12-SPGP-01 must be completed by May 31, 2017.

44. Time extensions. If a permittee is unable to complete the work authorized under12-SPGP-01 in the time limit provided in the initial authorization, he/she must submit a request for a time extension to the Corps and the VDEQ for consideration at least one month prior to the expiration of the permit authorization.

45. Expiration of12-SPGP-01. Unless further modified, suspended, or revoked, 12-SPGP-01 will be in effect until May 31, 2017.Upon expiration, it may be considered for revalidation. Activities which have commenced (i.e., are under construction) or are under contract to commence construction in reliance upon 12-SPGP-01 will remain authorized provided the activity is completed within twelve months of the date of this12-SPGP-01's expiration of May 31, 2017, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.7(a-e).

5/31/12
Date

PAUL B. OLSEN, P.E.
Colonel, Corps of Engineers
Commanding

Change of Ownership Agreement Form

RE: Change of Ownership - VWP Permit No. 07-0860

Name of permitted facility Cutalong LLC, Louisa County

TO: Virginia Department of Environmental Quality

We, the undersigned, hereby request a transfer of ownership for the referenced permit.
Anticipated date of transfer: ASAP

CURRENT OWNER: I (We) hereby agree to the transfer of ownership modification to the referenced VWP Permit.

Current Owner name as listed on the VWP Permit Cover Page Cutalong LLC

Signed: Paul F. Larner Date: 10/26/2012

Printed Name: PAUL F. LARNER Title: MANAGER

Address: 3071 Slate Mills Rd

Spotsylvania, VA 22740

Email: plarner2003@hotmail.com

NEW OWNER: I (We) hereby agree to the change of ownership modification to the referenced VWP Permit, and agree to accept all conditions and responsibilities of the permit.

Transferred permit to be issued to: Symon & Symeon Property Development LLC

Signed: Date: 10/29/12

Printed Name: Brian Newman Title: Project Manager

Address: 200 Waterfront Drive Suite 103

Mineral VA 23117

Telephone: 570) 656-6334 M 540-894-9304 O

Email: bnewman3973@gmail.com

This form must be signed by properly authorized individuals as specified in the VWP Permit Regulation.